

Bureau of Indian Affairs, Interior

§ 44.107

(b) The regulations in this part; and
(c) Guidelines, manuals, and policy directives agreed to by the grantee.

§ 44.102 Does this part affect existing tribal rights?

This part does not:

- (a) Affect in any way the sovereign immunity from suit enjoyed by Indian tribes;
- (b) Terminate or change the trust responsibility of the United States to any Indian tribe or individual Indian;
- (c) Require an Indian tribe to apply for a grant; or
- (d) Impede awards by any other Federal agency to any Indian tribe or tribal organization to administer any Indian program under any other law.

§ 44.103 Who is eligible for a grant?

The Secretary can make grants to Indian tribes and tribal organizations that operate:

- (a) A school under the provisions of 25 U.S.C. 450 *et seq.*;
- (b) A tribally controlled school (including a charter school, community-generated school or other type of school) approved by tribal governing body; or
- (c) A Bureau-funded school approved by tribal governing body.

§ 44.104 How can a grant be terminated?

A grant can be terminated only by one of the following methods:

- (a) Retrocession;
- (b) Revocation of eligibility by the Secretary; or
- (c) Reassumption by the Secretary.

§ 44.105 How does a tribal governing body retrocede a program to the Secretary?

(a) To retrocede a program, the tribal governing body must:

- (1) Notify the Bureau in writing, by formal action of the tribal governing body; and
 - (2) Consult with the Bureau to establish a mutually agreeable effective date. If no date is agreed upon, the retrocession is effective 120 days after the tribal governing body notifies the Bureau.
- (b) The Bureau must accept any request for retrocession that meets the

criteria in paragraph (a) of this section.

(c) After the tribal governing body retrocedes a program:

- (1) The tribal governing body decides whether the school becomes Bureau-operated or contracted under 25 U.S.C. 450 *et seq.*; and
- (2) If the tribal governing body decides that the school is to be Bureau-operated, the Bureau must provide education-related services in at least the same quantity and quality as those that were previously provided.

§ 44.106 How can the Secretary revoke an eligibility determination?

(a) In order to revoke eligibility, the Secretary must:

- (1) Provide the tribe or tribal organization with a written notice;
 - (2) Furnish the tribe or tribal organization with technical assistance to take remedial action; and
 - (3) Provide an appeal process.
- (b) The Secretary cannot revoke an eligibility determination if the tribe or tribal organization is in compliance with 25 U.S.C. 2505(c).
- (c) The Secretary can take corrective action if the school fails to be accredited by January 8, 2005.

(d) In order to revoke eligibility for a grant, the Secretary must send the tribe or tribal organization a written notice that:

- (1) States the specific deficiencies that are the basis of the revocation or reassumption; and
- (2) Explains what actions the tribe or tribal organization must take to remedy the deficiencies.

(e) The tribe or tribal organization may appeal a notice of revocation or reassumption by requesting a hearing under 25 CFR part 900, subpart L or P.

(f) After revoking eligibility, the Secretary will either contract the program under 25 U.S.C. 450 *et seq.* or operate the program directly.

§ 44.107 Under what circumstances may the Secretary reassume a program?

The Secretary may only reassume a program in compliance with 25 U.S.C. 450m and 25 CFR part 900, subpart P. The tribe or school board shall have a